



**COUNTY ATTORNEY'S OFFICE
MEMORANDUM**

TO: Board of County Commissioners

THROUGH: Stephen P. Lee, Deputy County Attorney

FROM: Lynn Vouis, Assistant County Attorney

CONCUR: Pam Hastings, Administrative Manager/Public Works Department
David V. Nichols, P.E., Principal Engineer/Engineering Division

DATE: September 8, 2005

RE: Bunnell Road/Eden Park Avenue road improvement projects
Litigation Settlement Authorization
Country Creek Master Association, Inc.
Parcel Nos. 109; 709A and 709C (Bunnell Road)
Parcel Nos. 715C; 715D; 815A; 815B; and 817 (Eden Park Avenue)

This Memorandum requests settlement authorization by the Board of County Commissioners (BCC) as to Parcel Nos. 109, 709A and 709C on Bunnell Road and Parcel Nos. 715C, 715D, 815A, 815B and 816 on Eden Park Avenue. The recommended settlement is at the total sum of \$438,000.00 inclusive of all land value, improvements, cost to cure, attorney fees and cost reimbursements. The settlement is contingent upon the BCC's approval of the vacate of a portion of platted right-of-way within the Country Creek subdivision.

I THE PROPERTY

A. Location

The acquisitions are from the Country Creek Subdivision Master Association common areas adjacent to Bunnell Road and Eden Park Avenue in Altamonte Springs. (See location map, attached hereto as Exhibit A). Parcel 109 is a strip take needed for the widening of Bunnell Road and the relocation of the main entrance to the subdivision. Parcels 709A and 709C are also needed to construct the relocated main entrance. Parcel Nos. 815A and 815B are permanent drainage easements located at the south entrance to the Country Creek subdivision on the east side of Eden Park Avenue, and Parcel No. 817 is a permanent drainage easement located at the entrance to the Forest Edge at Country Creek subdivision. Parcel Nos. 715C and 715D are needed for construction activities at the south entrance to the Country Creek subdivision.

II AUTHORITY TO ACQUIRE

The BCC adopted Resolution No. 2004-R-72 on April 13, 2004, First Amended Resolution No. 2005-R-5 on January 11, 2005, Second Amended Resolution No. 2005-R-70 on April 12, 2005, and Third Amended Resolution No. 05-R-116 on June 28, 2005, authorizing the acquisition of the referenced property for Bunnell Road, and finding that the improvements are necessary and serve a County and public purpose and are in the best interests of the citizens of Seminole County.

The BCC adopted Resolution No. 2004-R-73 on April 13, 2004 and First Amended and First Supplemental Resolution No. 2005-R-69 on April 12, 2005, authorizing the acquisition of the referenced property, and finding that the construction of the Eden Park Avenue road improvement project is necessary and serves a county and public purpose and is in the best interests of the citizens of Seminole County.

The Order of Taking Hearing is scheduled for October 12, 2005 before the Honorable Debra S. Nelson.

III APPRAISED VALUES

Clayton, Roper & Marshall, Inc., completed appraisals for the listed parcels and reported total compensation at \$352,200.00 for all parcels. The County's staff appraiser reviewed and approved the appraisals.

PARCEL NOS.	PROPERTY OWNER	PROPERTY TO BE ACQUIRED	COUNTY'S APPRAISED VALUE
109	COUNTRY CREEK MASTER ASSOCIATION, INC.	14,042 sf	\$241,100.00
709A	COUNTRY CREEK MASTER ASSOCIATION, INC.	161 sf	2,300.00
709C	COUNTRY CREEK MASTER ASSOCIATION, INC.	10,082 sf	94,400.00
	TOTAL BUNNELL ROAD		\$337,800.00

815A	COUNTRY CREEK MASTER ASSOCIATION, INC.	592 sf	\$2,000.00
815B	COUNTRY CREEK MASTER ASSOCIATION, INC.	551 sf	1,900.00
715C	COUNTRY CREEK MASTER ASSOCIATION, INC.	402 sf	1,200.00
715D	COUNTRY CREEK MASTER ASSOCIATION, INC.	616 sf	2,400.00
817	COUNTRY CREEK MASTER ASSOCIATION, INC.	1,796 sf	6,900.00
	TOTAL EDEN PARK AVENUE		\$14,400.00
	COMBINED TOTAL ALL PARCELS		\$352,200.00

IV BINDING OFFER/NEGOTIATION

On June 28, 2005, the BCC authorized a binding written offer in the amount of \$352,200.00 for all parcels. County staff negotiated this settlement amount of \$438,000.00 inclusive of attorney's fees and costs, contingent upon BCC approval and successful acquisition of the property through an Order of Taking hearing to be held on October 12, 2005.

V ATTORNEY FEES AND COSTS

The settlement of the case is at \$438,000.00 with attorney fees and cost reimbursements to be paid from that amount by the Country Creek Homeowner's Association.

VI SETTLEMENT ANALYSIS/COST AVOIDANCE

County staff began negotiating with representatives from the Country Creek subdivision in the early stages of the Bunnell Road/Eden Park Avenue projects, in recognition of the substantial changes to the subdivision's entry features caused by the Bunnell Road project. The County is modifying the existing intersection at Lake Lotus Club, which necessitates closing Country Creek's existing main entrance and shifting it to the west, shortening the subdivision's meandering entrance road.

The parties have reached a settlement agreement, contingent on Board approval, of \$438,000.00, inclusive of all attorney's fees and expert costs. The County will construct the new entrance road in order to connect the subdivision to the new roadway. Country Creek will be responsible for all reconstruction of the aesthetic features, such as extending the brick wall to close off the existing entrance and restoring signage, irrigation, etc. The County has also agreed to modify the plans to provide an additional lane into the subdivision, as long as Country Creek donates any additional property needed for the lane at no additional cost.

The title to the property will pass to the County pursuant to the deposit of funds, based upon the granting of an Order of Take by Judge Nelson in Case No. 05-CA-1610-13-K. As part of this negotiated settlement, the property owner has agreed to stipulate to the granting of title to the County at the Order of Taking hearing. This stipulation is an important consideration because the acquisition involves forcing a subdivision to close and relocate its main entrance in furtherance of the County's road improvement project. Country Creek Parkway must be shortened and straightened out which will radically impact the aesthetics of the subdivision entrance. Although the purpose behind the decision to relocate the entrance is driver safety, it is still not typical in a roadway project and the necessity for it could be challenged by traffic engineers hired by the Homeowner's Association, delaying the project and costing the County thousands in expert costs.

Part of the settlement amount is based on the actual cost estimates for the construction necessary to return Country Creek to its present condition after the main entrance is relocated. The cost includes removing the old entrance signs and lighting, removing the pavement for the portion of Country Creek Parkway leading to the former main entrance, re-sodding and re-landscaping the former roadway area, removing the guard building which is situated on the obsolete portion of Country Creek Parkway, and rebuilding a portion of the brick wall to close off the current entrance. The County will be responsible for building the new Country Creek Parkway from the newly improved Bunnell Road to the point of connection with the existing pavement (See sketches attached hereto as Exhibits B, C, and D).

The estimated costs to restore the subdivision's entrance are substantial. The County's appraiser estimates the cure costs at approximately \$240,000.00, while the Homeowner's Association estimates them at approximately \$311,000.00. Also included in the settlement is the land value for all the property the County requires from Country Creek for the Bunnell Road and Eden Park Avenue projects. The County's land value for all the parcels is approximately \$112,000.00. Although the Owners have not provided the County with their opinion of land value, they have already retained Stephen Matonis to prepare an appraisal report if this case proceeds to contested litigation. Based on past experience, the land value he would estimate would be high in comparison to the County's.

Another part of the proposed settlement with Country Creek involves BCC consideration of a motion to vacate a portion of unused platted right-of-way that traverses through part of Country Creek. The request for the BCC to approve a Resolution to vacate and abandon this right-of-way will be presented after the approval of this settlement.

VII RECOMMENDATION

The Country Creek Homeowner's Association's attorney, Kurt Ardaman, and HOA President Patricia Freeman have worked cooperatively with County staff to try and negotiate a solution that would allow the County to improve its roadways while limiting

disruption to the 860 households that reside in the County Creek Subdivision. This proposed settlement allows the subdivision to oversee the construction of the cure while limiting the County's payment to a reasonable amount. County staff recommends that the BCC authorize total settlement in the amount of \$438,000.00, inclusive of land value, improvements, cost to cure, statutory attorney's fees and costs reimbursements.

LMV/krc

Attachments:

Exhibits A – Location Map (Bunnell Road/Eden Park Avenue)

Exhibits B, C, and D – Property Sketches (Bunnell Road/Eden Park Avenue)

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AREA AND NEIGHBORHOOD DATA AND LOCATION MAPS

Area and neighborhood data and location maps were previously submitted in the General Data Book and are incorporated into this appraisal by reference.

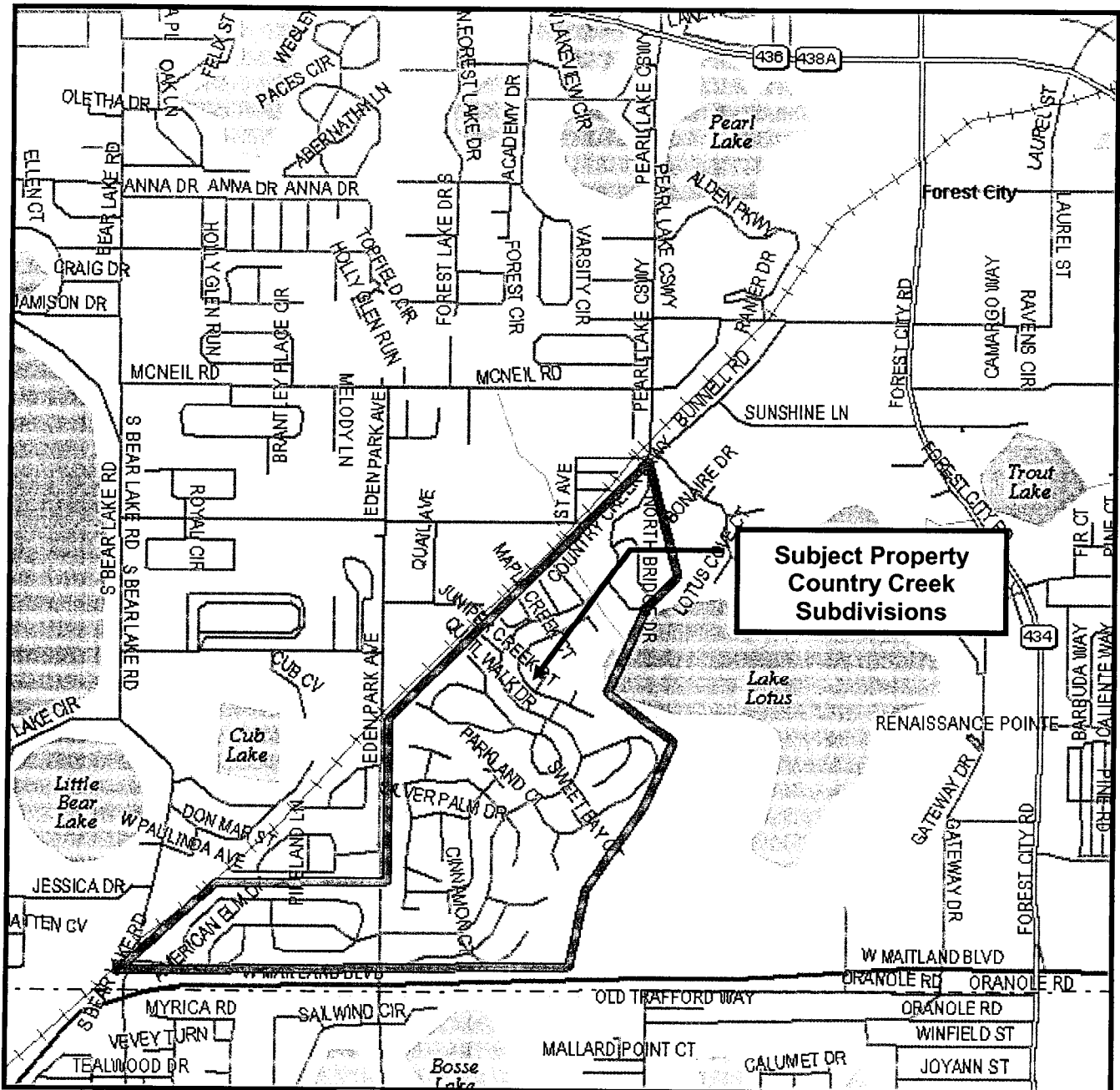
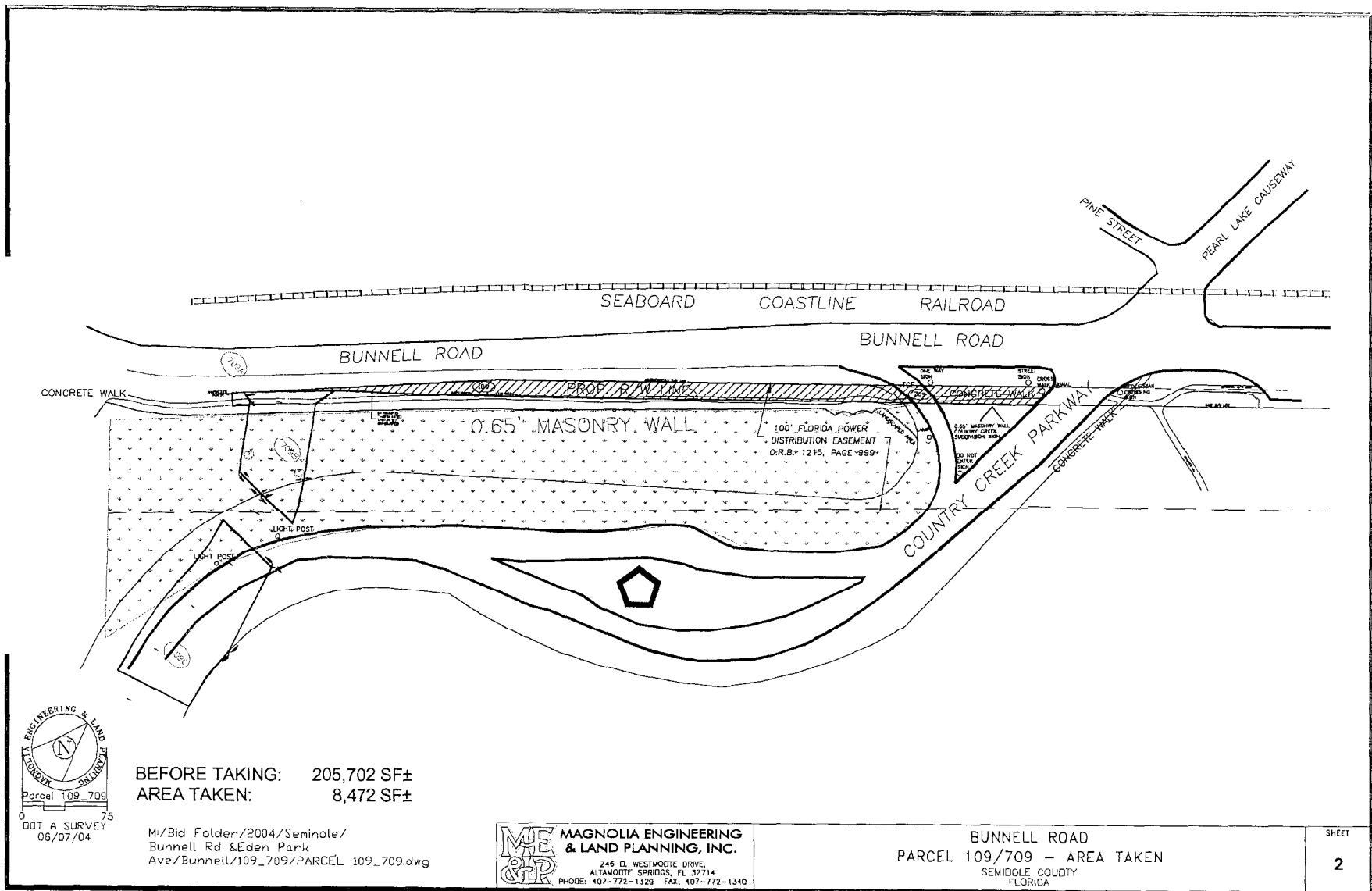
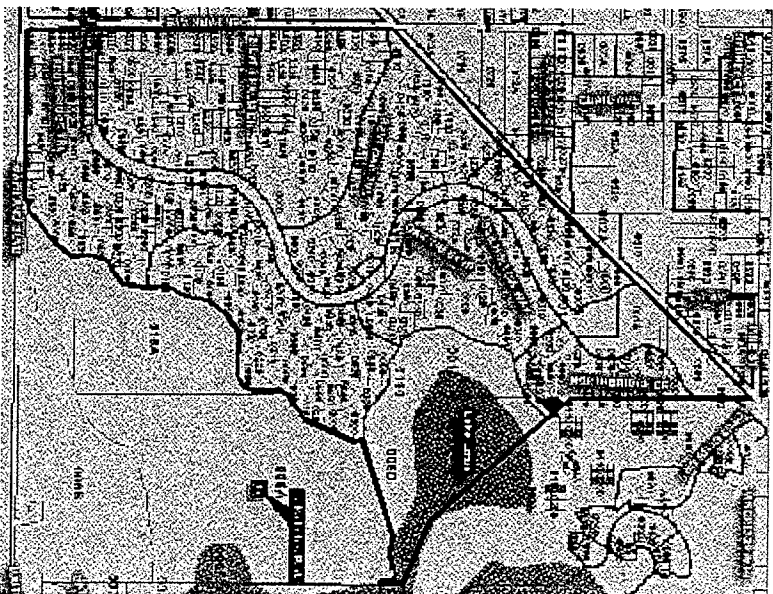
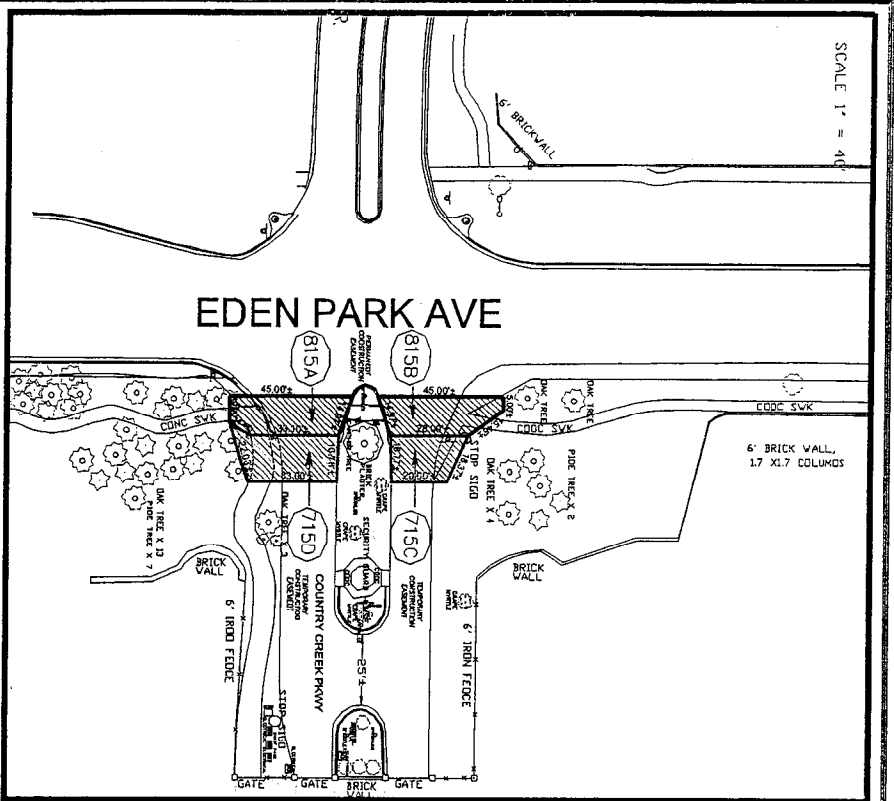


EXHIBIT A

EXHIBIT B





BEFORE TAKING: 216.74 AC±
 AREA PERMANENT EASE 815A: 592 SF±
 AREA PERMANENT EASE 815B: 551 SF±
 AREA TCE 715C: 402 SF±
 AREA TCE 715D: 616 SF±

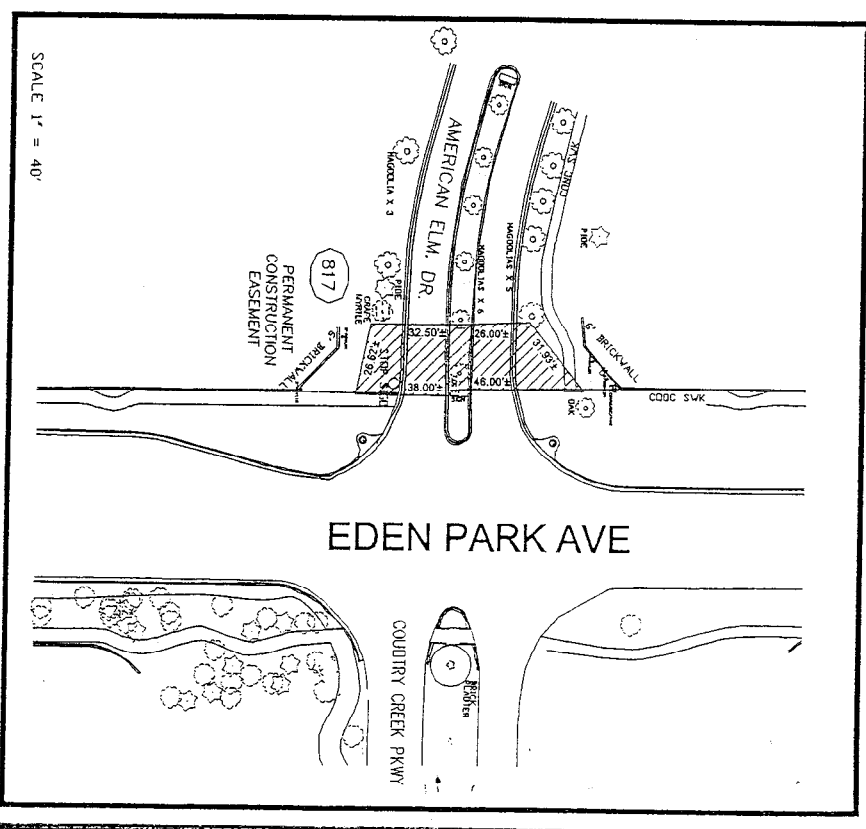
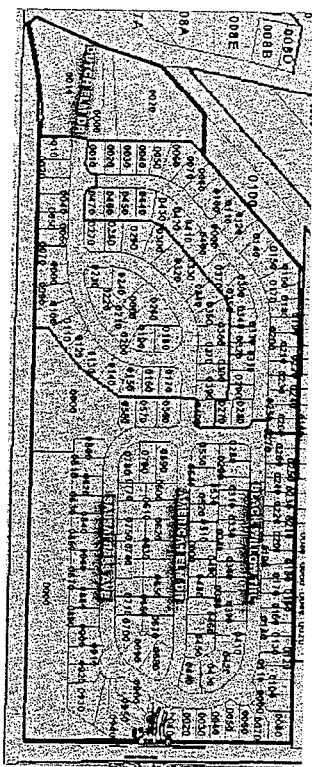
PARCEL 815-715
 DOT A SURVEY
 10/22/04
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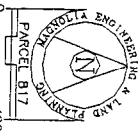
04-264 EDEN PARK AVENUE
 PARCEL 815/715 - AREA TAKEN
 SEMINOLE COUNTY
 FLORIDA

SHEET
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EXHIBIT C

**EXHIBIT D**

BEFORE TAKING: 45.22 AC±
AREA PERMANENT EASEMENT: 1,796 SF±



DOT A SURVEY
10/22/04
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817.DWG



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04-264 EDEN PARK AVENUE
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SEMIPOLE COUNTRY
FLORIDA

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